

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of
ERNEST ZENO

Appearances:

For Appellant: Ernest Zeno, in pro. per.

For Respondent: Burl D. Lack, Chief Counsel

O P I N I O N

This appeal is made pursuant to Section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protests of Ernest Zeno against proposed assessments of additional personal income tax in the amounts of \$14.11, \$11.28 and \$11.50 for the years 1956, 1957 and 1958, respectively.

Appellant and his wife, Gaye Andrews Zeno, were divorced in 1956. They had three children who resided with their mother during the years on appeal. During those years Appellant contributed \$100 per month towards the support of the children and claimed exemptions for them as dependents on his income tax returns. Mrs. Zeno also claimed the children as her dependents. The Franchise Tax Board disallowed the dependency exemptions claimed by Appellant.

During the years in question Section 17181 of the Revenue and Taxation Code permitted an exemption of \$400 for each dependent of the taxpayer. A dependent, as defined in Section 17182, includes a son or daughter over half of whose support was received from the taxpayer. This definition is substantially the same as found in Section 152 of the 1954 Internal Revenue Code.

Appellant bases his claim on the fact that he contributed \$1,200 a year for the support of his children. He has offered no evidence, however, regarding the total yearly amounts expended for the support of his children. Thus, he has failed to prove that he supplied more than half of the children's support and is not entitled to claim them as dependents. (Bernard C. Rivers, 33 T.C. 935.)

Further, assuming that the aggregate sum of \$1,200 a year constituted more than half of one child's support, we cannot sustain Appellant's contention that he is entitled to claim at

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least one child as a dependent since he has failed to show that his payments were made for the support of one particular child, to the exclusion of the others. (Ollie J. Kottowski, 10 T.C. 533.)

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protests of Ernest Zeno against proposed assessments of additional personal income tax in the amounts of \$14.11, ~~\$11.28~~ and \$11.50 for the years 1956, 1957 and 1958, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 1st day of October, 1963, by the State Board of Equalization.

- John W. Lynch, Chairman
_____, Member
Geo. R. Reilly, Member
Paul R. Leake, Member
_____, Member

ATTEST: H. F. Freeman, Secretary